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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/676,305	09/30/2003	Alan J. Duyst	25316	8174

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EXAMINER

MAI, TRI M

ART UNIT PAPER NUMBER

3727

DATE MAILED: 02/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/676,305	Applicant(s) DUYST, ALAN	
	Examiner Tri M. Mai	Art Unit 3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

1. Claim 9 is objected for being a duplicate of claim 4.
2. Claim 1 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

“said first side panel” is confusing. It is unclear whether which side panel is referred to. It is noted that the claim previously recites “first side panels”. Similar issue with “second side panel”. Note that the claim only recites one outer bottom panel, one inner bottom panel, and first and second divider panel. The claim previously recites a pair of first side and second side panels.

3. Claims 1-3, and 5-8 are rejected under 35 U.S.C. 102 (b) as being anticipated by Nolen(345902), or in the alternative over Nolen. Nolen teaches a pair of first side panels, second side panels, outer bottom panel 32, inner bottom panel 24, first and second divider panels 25, 35. With respect to the slot being at least twice the thickness of the first divider panel, slots 38 are at least twice the thickness of the divider panel so that it can accommodate panels 32.

In the alternative, It would have been obvious for one of ordinary skill in the art to provide the slot at least twice the thickness of the divider panel so that it accommodate the other divider panel easily.

Claims 1-3, and 5-8 are rejected under 35 U.S.C. 102 (b) as being anticipated by Brian (4574996) or Loudermilk, Jr. (4347967) or Metzger (2785844). Brian teaches a foldable material having first side panels 10, second side panel 14, outer bottom panels 42, inner bottom panels 22, first divider panel 56+50 connected to the outer bottom panels 42, second divider

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panels 26 connected to the inner bottom panel 22, and a divider slot 30 formed in the inner bottom panel 22 and the second divider panel 26. With respect to the slot being at least twice the thickness of the first divider panel, slots 30 are at least twice the thickness of the divider panel so that it can accommodate panels 22, 26, 24, 28.

Loudermilk teaches foldable material having first side panels 14, 14, second side panels 12, 16, outer bottom panels 38, inner bottom panels 22, first divider panel 40 connected to the outer bottom panels 38, second divider panels 24 connected to the inner bottom panel 22, and a divider slot 30 formed in the inner bottom panel 22 and the second divider panel 24. With respect to the slot being at least twice the thickness of the first divider panel, slots 30 are at least twice the thickness of the divider panel so that it can accommodate panels 40 as shown in Fig. 7.

Metzger teaches similar container as shown in Fig. 4.

4. Claims 4, and 9 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Brian or Metzger in view of either Means et al. (2138112) or Jenkins et al. (345510). It would have been obvious for one of ordinary skill in the art to provide a lift cut in the divider and the sidewalls as taught by either Means or Jenkins to enable venting.

5. Claim 4, and 9 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Loudermilk in view of Wolf (36955050). Note that Loudermilk teaches a lift cutout at 36 in the second divider panel 24. Loudermilk meets all claimed limitations except for the lift cut out in the second side panel. It would have been obvious for one of ordinary skill in the art to provide a lift cut out 41 in the second side panel as taught by Wolf to enable one to handle the container easily. Note that the term lift cut out is broad and does not impart any structure over portion 36 in Loudermilk.

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6. Claim 3, and 8 is rejected under 35 U.S.C. 103 (a) as being unpatentable over anyone of Nolen, Loudermilk, or Brian in view of Bruce (3547339). To the degree it is argued that none of these references fails to teach the specificities of the corrugated material. It would have been obvious for one of ordinary skill in the art to make the container from one layer corrugated material as taught by Bruce to provide the desired material for added strength and/or integrity.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri M. Mai whose telephone number is (571)272-4541. The examiner can normally be reached on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on (571)272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tri M. Mai
Primary Examiner
Art Unit 3727

